

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7489

BILL NUMBER: HB 1386

NOTE PREPARED: Apr 10, 2013

BILL AMENDED: Apr 9, 2013

SUBJECT: Unfair Practices Concerning Motor Vehicle Sales.

FIRST AUTHOR: Rep. Speedy

FIRST SPONSOR: Sen. Merritt

BILL STATUS: As Passed Senate

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill incorporates the changes made to these laws by SEA 537-2013. The bill also amends existing provisions and establishes new provisions concerning unfair practices with respect to motor vehicle dealers, manufacturers, distributors, franchises, and franchisees.

Effective Date: July 1, 2012.

Explanation of State Expenditures: This bill adds unfair practices concerning motor vehicle sales. To the extent individuals are alleged to have engaged in unfair practices, this bill will increase the workload of the Secretary of State Dealer Services Division to investigate allegations and provide adjudicative proceedings to determine if an unfair practice has been committed.

Explanation of State Revenues: *Summary:* This bill increases the number of unfair practices regarding motor vehicle sales in the state. As a result, this bill could increase revenue received from fines, civil penalties, and court fees (depending on if a violator is prosecuted in civil or criminal court).

Revenue collected from civil penalties for unfair practice actions filed with the Securities Division of the Secretary of State are still to be deposited in the Securities Division Enforcement Account. Revenue from (1) criminal fines would be deposited in the Common School Fund and (2) court fees would be deposited in the General Fund. Increases in state revenue are indeterminable.

Additional Information:

Revenue from Civil Penalties: According to the changes made in SEA 537-2013, the penalty for an unfair practice involving motor vehicles filed with the Securities Division of the Secretary of State is subject to a maximum civil penalty of \$10,000 per violation. The Secretary of State is to determine the specific penalty amount and would be able to levy civil penalties against violators, attempted violators, and individuals who assist in the violations. Revenue collected from these civil penalties is currently deposited in the Securities Division Enforcement Account.

Criminal Penalties: According to the changes made in SEA 537-2013, individuals who knowingly or intentionally violate the laws governing vehicle manufacturers, dealers, and distributors (including unfair practices added by the bill) could also be punishable as a Class A misdemeanor (IC 9-32-17-6). If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenue would likely be small.

Explanation of Local Expenditures: *Penalty Provision:* A Class A misdemeanor is punishable by up to one year in jail.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

State Agencies Affected: Secretary of State.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

Fiscal Analyst: Bill Brumbach, 232-9559.